

## § 37.70

(e) If a miner refuses to participate in all phases of the examination prescribed in this subpart, no report need be made. If a miner refuses to participate in any phase of the examination prescribed in this subpart, all the forms shall be submitted with his or her name and social security account number on each. If any of the forms cannot be completed because of the miner's refusal, it shall be marked "Miner Refuses," and shall be submitted. No submission shall be made, however, without a completed miner identification document containing the miner's name, address, social security number and place of employment.

[43 FR 33715, Aug. 1, 1978, as amended at 77 FR 56735, Sept. 13, 2012; 79 FR 45119, Aug. 4, 2014]

### REVIEW AND AVAILABILITY OF RECORDS

#### § 37.70 Review of interpretations.

(a) Any miner who believes the classification for pneumoconiosis reported to him or her by MSHA is in error may file a written request with NIOSH that his or her radiograph be reevaluated. If the classification was based on agreement between an A Reader and a B Reader, NIOSH will obtain one or more additional classifications by B Readers as necessary to obtain agreement in accord with § 37.53, and MSHA must report the results to the miner together with notification from MSHA of any rights which may accrue to the miner in accordance with § 37.7. If the reported classification was based on agreement between two (or more) B Readers, the reading will be accepted as conclusive and the miner must be so informed by MSHA.

(b) Any operator who is directed by MSHA to transfer a miner to a less dusty atmosphere based on the most recent examination may file a written request with NIOSH to review its findings. The standards set forth in paragraph (a) of this section apply and the operator and miner will be notified by MSHA whether the miner is entitled to the option to transfer.

[77 FR 56735, Sept. 13, 2012, as amended at 79 FR 45119, Aug. 4, 2014]

## 42 CFR Ch. I (10–1–15 Edition)

#### § 37.80 Availability of records for radiographs.

(a) Medical information and radiographs on miners will be released by NIOSH only with the written consent from the miner, or if the miner is deceased, written consent from the miner's widow or widower, next of kin, or legal representative.

(b) To the extent authorized, radiographs will be made available for examination only at NIOSH.

[77 FR 56735, Sept. 13, 2012]

#### Subpart—Spirometry Examinations

SOURCE: 79 FR 45119, Aug. 4, 2014, unless otherwise noted.

#### § 37.90 Scope.

Under this subpart, coal mine operators are required to provide spirometry examinations to each current and new coal miner, using medical facilities approved by NIOSH in accordance with standards established in this subpart.

#### § 37.91 Definitions.

Definitions provided in § 37.2 will have the same meaning in this subpart. Any term defined in the Federal Mine Safety and Health Act of 1977 and not defined in § 37.2 or this section will have the meaning given it in the Act. As used in this subpart:

*ATS* means American Thoracic Society.

*ERS* means European Respiratory Society.

*Facility* means a facility or organization licensed to provide health care by the State or Territory in which services are provided, such as a hospital, a clinic, or other provider that performs spirometry examinations.

*FET* means forced expiratory time, which is the time from the beginning of exhalation (the back-extrapolated "time zero") to the end of the expiratory maneuver.

*FEV1* means forced expiratory volume in the first second, which is the volume of air that can forcibly be blown out in one second, after full inspiration.

*FEV6* means forced expiratory volume in the first six seconds, which is the volume of air that can forcibly be